

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

MARK W. GLASMIRE,

PLAINTIFF,

VS.

PUBLIC STORAGE, PSCC, INC., AND
SHURGARD STORAGE CENTERS, LLC.,

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CIVIL ACTION NO. 4:11-CV-748-Y
(Relates to Motions Referred to
Magistrate Judge Cureton)

DEFENDANTS.

**ORDER RULING ON PLAINTIFF'S AND DEFENDANTS' OBJECTIONS
RELATING TO TESTIMONY TO BE OFFERED BY DEPOSITION**

On May 14, 2013, the Court signed its Order Ruling on Plaintiff's and Defendants' Objections Relating to Testimony to be Offered by Deposition [doc. # 182], in which the Court ruled on objections to the parties' designations of testimony provided by witness David Doll. Because Defendants had represented to the Court that the remaining witnesses would appear and provide live testimony at trial, the Court did not rule on the parties' objections to those witnesses' deposition testimony at that time. Instead, the Court directed the parties to notify the court if they later determined that any of these witnesses would not appear at trial and, thus, would require their testimony to be offered by deposition.

Subsequently, on May 15, 2013, Defendants informed the Court that witness Frank Caccuro may be unavailable to appear and provide live testimony at trial, so the parties requested a ruling on Defendants' objections to Plaintiff's deposition designations as to Caccuro.¹ Having

¹ The relevant documents pending before the Court are (1) Defendants' Objections to Plaintiff's Deposition Designation and Motion for Ruling by Magistrate [doc. # 140], filed April 29, 2013; (2) Defendants' Supplemental Objections to Plaintiff's Deposition Designation and Motion for Ruling by Magistrate [doc. # 141], filed April 30, 2013; and (4) Plaintiff's Response to Defendants' Objections to Plaintiff's Deposition Designations and Motion for Ruling by Magistrate [doc. # 145], filed May 6, 2013.

read the motions and responses and carefully considered the objections in the context of the issues raised in the litigation, the Court rules on Defendants' objections as follows:

I. General Instruction

IT IS ORDERED THAT, before using any designated deposition testimony at trial, both Plaintiff and Defendants shall delete all objections made by counsel that are contained in the transcript of the designated deposition testimony.

II. Deposition of Frank Caccuro: Defendants' Objections to Plaintiff's Designations

The following objections to Plaintiff's Designations are **SUSTAINED**:

13:18-14:2
48:21-24, 49:3
66:17-23
124:9-10, 124:13-14
128:22-23
131:18-22
279:5-6
283:25-284:7, 285:18-19, 285:24
301:7-10, 301:12-14

The following objections to Plaintiff's Designations are **OVERRULED**:

18:9-10, 18:14-15
45:7-8
48:9-11
58:10-59:10
80:13-16, 81:3-12
124:1-3
138:23-139:20
141:13-15
169:5-9, 169:15
169:21-24, 170:1-4
170:9-12, 170:14-16, 170:18
172:1-14
182:15-183:13
184:7-9, 184:11-12, 184:15-185:12
186:5-8
187:24-188:3
188:4-9
189:20-190:6, 191:20-192:4, 192:15-19
193:8-20

196:12-19
219:2-8, 219:12-16, 219:25-220:14, 220:25-221:4, 221:11-23, 223:24-224:14, 224:23-25
221:5-10
225:1-3
232:7-16
232:19-20, 232:24-233:1
233:4-10
235:14-17
243:16
244:17-245:2
251:10-15
251:21-252:7
252:24
255:9
257:18-22, 258:16-21, 259:2-5
259:6-10
259:18-24, 260:1, 260:7-11
260:12-14
261:5-8
264:13
265:5-7, 265:9-10, 265:12
265:15-19
266:24
267:5-7, 267:9-11
267:12-14
269:21-270:16
271:20-272:19, 273:1
275:16
280:15-16, 281:5-6
282:10-17
286:8-13
286:21-24, 287:12
293:8-10, 294:19-21
307:14-308:10
308:11-12
308:25-309:8
319:6-7, 319:15-320:13, 320:16-21
321:8-11, 321:15-24, 322:6-10

The following objections to Plaintiff's Designations are **OVERRULED**, but the parties must include the additional testimony identified below:

18:22-24 (must include 19:24-20:12)
187:4-5, 187:7 (must include 187:7-8)
205:9-11 (must include 205:12-20)
231:23-24 (must include 232:6)

279:8-11, 280:1-6 (must include 279:7 beginning with "Whether it was . . .")
291:21-23 (must include 287:13-18)
297:16-17 (must include 297:16-17)
323:5-8, 323:11-17 (must include 323:9-10)

The following objections to Plaintiff's Designations based on Federal Rules of Evidence 402 and 403 are **OVERRULED** pursuant to the District Judge's May 20, 2013 Order Granting in Part and Denying in Part Defendants' Motions in Limine, but Defendants may raise the unsuccessful objections relating to their Motions in Limine again in the context of trial. Any objections to the following designations on other grounds are also **OVERRULED**:

51:16-18
52:18-53:15
54:20-55:18
56:7-11
74:20-75:13, 75:21-76:1
76:8-14
76:20-77:1
102:18-20
103:5-8, 103:11-14
103:22-104:17
111:12-112:6
112:7-9, 112:12, 112:18-22
126:12-128:2
128:14-21
134:13-16
134:23-135:4
135:19-136:1, 136:4
136:9-17
202:21-23, 204:5-9, 204:13-23, 205:3-8
206:6-18
236:10-21, 236:24
245:3-8, 245:10-14, 245:17-18, 246:1-4, 246:7
246:20-21, 246:24-247:2, 247:4-8
247:15-17, 247:20-24, 248:2, 248:5-10, 248:13, 248:18
249:14-15, 249:18
250:7-11, 250:18-251:8
254:14-24, 255:7-8
255:25-256:2, 256:6-8, 256:11-14, 256:18
265:20-24, 266:10-13, 266:16-22
267:15-19, 267:22-268:1, 268:6-25
308:17-24
316:8-24
324:11-326:18

The Court's rulings on the following objections to Plaintiff's Designations based on Federal Rules of Evidence 402 and 403 are **RESERVED** for ruling by the District Judge pursuant to the District Judge's May 20, 2013 Order Granting in Part and Denying in Part Defendants' Motions in Limine. Any objections to the following designations on other grounds are **OVERRULED**:

35:24-36:7
83:25-84:10, 84:12-14, 84:16-19
98:5-13
167:18-21, 167:23-168:3
174:10-16, 174:19-25, 175:4-7, 175:13-17, 175:21-25, 176:4-10, 176:13-16
177:23-25, 178:3-10
178:20-25, 179:2-3, 179:6
179:9-11, 179:14-21, 179:25
181:2-5, 181:7-12, 181:15-18, 181:20-182:4, 182:7-9
200:12-19
227:5-6, 227:8
227:14-22
228:3-5
313:5-6, 313:9, 313:22-314:15, 315:5-24

The following objections to Plaintiff's Designations are **OVERRULED**, but the Court notes that the parties should comply with the District Judge's May 20, 2013 Order Granting in Part and Denying in Part Defendants' Motions in Limine before presenting the designated testimony:

225:16-226:3, 226:8-10, 226:12-24

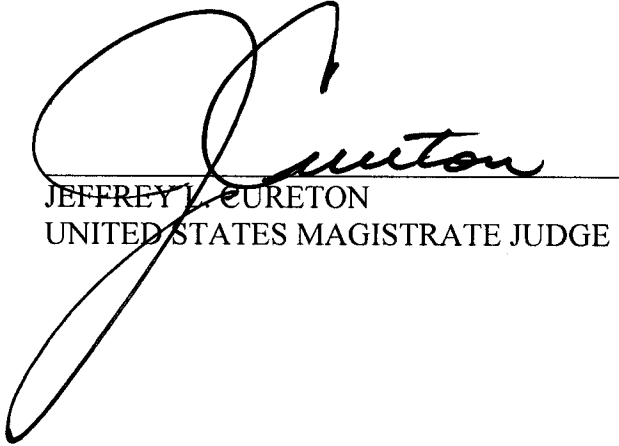
III. Deposition of Frank Caccuro: Defendants' Counter-Designations

Finally, the following counter-designations to Plaintiff's designations are **NOT ALLOWED**:

45:9-14
115:18-23
145:23-147:15

All of Defendants' remaining counter-designations to Plaintiff's designations are
ALLOWED.

SIGNED May 21, 2013.



JEFFREY L. CURETON
UNITED STATES MAGISTRATE JUDGE